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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/846,649	05/01/97	DINSDALE	M 090928.A008

EXAMINER

IM11/1208

BAKER & BOTTS
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MAPLES, J
ART UNIT PAPER NUMBER

1745

DATE MAILED: 12/08/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
Of the above, claim(s) 17-20 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-16, 21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The drawing(s) filed on 5-1-97 INFORMAL is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

—SEE OFFICE ACTION ON THE FOLLOWING PAGES—

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16 and 21, drawn to an apparatus, classified in class 429, subclass 1.
 - II. Claims 17-20, drawn to a method for making an apparatus, classified in class 29, subclass 623.1.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed in Group II can be used to make another and materially different product than that set forth in Group I such as producing a hinge-a pivotal coupling, for the door and the battery compartment comprised of a pin and socket device.
3. Because the inventions are distinct for the reasons given above and acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes is deemed proper.
4. During a telephone conversation with Tom Felger on or around November 24, 1998 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16

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and 21. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 17-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-14 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright, Jr. et al. (Wright).

See the Abstract of Wright along with column 3, line 36 through column 4, line 17; column 4, line 60 through column 5, line 10 and column 6, lines 11-38 and all of the drawing figures.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

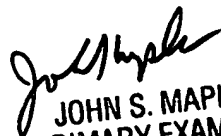
8. Claims 10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright.

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The only claimed feature not taught by Wright is specific size of the battery utilized. To use a AA or AAA size battery in the teachings of Wright would have been obvious at the time the invention was made so that the user would not be restricted to using only one type of battery in the holder of Wright. The various size differences in the particular batteries could be accommodated by modifying the size of the battery holder of Wright.

9. Any inquiry concerning this communication should be directed to John S. Maples at telephone number (703) 308-1795.

JSM/12-7-98


JOHN S. MAPLES
PRIMARY EXAMINER
GROUP 1745